

DA-7

PTO/SB/21 (09-04)

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

6

Application Number

09/942,232

Filing Date

August 29, 2001

First Named Inventor

Jonathan SCHULL

Art Unit

3621

Examiner Name

Firmin BACKER

Attorney Docket Number

4861-08

### ENCLOSURES (Check all that apply)

☐

Fee Transmittal Form

☐

Fee Attached

☐

Amendment/Reply

☐

After Final

☐

Affidavits/declaration(s)

☐

Extension of Time Request

☐

Express Abandonment Request

☐

Information Disclosure Statement

☐

Certified Copy of Priority Document(s)

☐

Reply to Missing Parts/  
Incomplete Application

☐

Reply to Missing Parts  
under 37 CFR 1.52 or 1.53

☐

Drawing(s)

☐

Licensing-related Papers

☒

Petition

☐

Petition to Convert to a  
Provisional Application

☐

Power of Attorney, Revocation

☐

Change of Correspondence Address

☐

Terminal Disclaimer

☐

Request for Refund

☐

CD, Number of CD(s) \_\_\_\_\_

☐

Landscape Table on CD

☐

After Allowance Communication to TC

☐

Appeal Communication to Board  
of Appeals and Interferences

☐

Appeal Communication to TC  
(Appeal Notice, Brief, Reply Brief)

☐

Proprietary Information

☐

Status Letter

☐

Other Enclosure(s) (please identify  
below):

Attachment A (Interview Summary) (2 p.)  
return postcard (1 p.)

Remarks

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Thelen Reid Brown Raysman Steiner LLP  
(Customer Number 29858)

Signature

Printed name

Kendrick P. Patterson

Date

February 6, 2007

Reg. No.

45,321

### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

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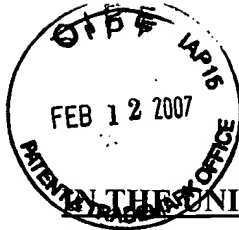
Anthony Avant

Date

February 6, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of : Confirmation No. : 9664  
Jonathan SCHULL Examiner : Firmin BACKER  
Serial No. : 09/942,232 Group Art Unit : 3621  
Filed : August 29, 2001 Attorney Dkt No. : 604861-8 (TWX 0443)  
Title : METHOD FOR SELLING, PROTECTING, AND REDISTRIBUTING  
DIGITAL GOODS

**PETITION UNDER 37 C.F.R. § 1.181(a)  
TO REQUEST RECONSIDERATION OF HOLDING OF ABANDONMENT  
PURSUANT TO MPEP § 711.03**

Director of Office of Patent Publication  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Abandonment mailed on January 8, 2007 in connection with the above-identified Application, Applicant respectfully requests reconsideration and withdrawal of the holding of abandonment in light of the following:

1. A Notice of Allowance for the present Application was mailed on September 8, 2006. The Notice established a deadline of December 8, 2006 for the payment of the issue fee and the publication fee. The Notice included an accompanying Notice of Allowability that indicated corrective drawings must be submitted.
2. During a telephone interview with Examiner Firmin Backer on November 7, 2006, Applicant's Representative Kendrick P. Patterson (Reg. No. 45,321) (herein "Applicant's Representative") discussed the request for corrective drawings with the Examiner.
  - a. Applicant's Representative emphasized that none of the prior Office Actions, including the aforementioned Notice of Allowability, specified any changes requested by either a Draftsman or an Examiner of record.
  - b. During the telephone interview, the Examiner admitted that he had no specific objections to the drawings, but routinely indicates in his Notices of Allowance that corrected drawings are required. The Examiner

indicated that the intent of this routine practice is to encourage Applicants to check their records to make sure that all necessary corrections are made to the drawings prior to issuance.

- c. Applicant's Representative informed the Examiner, during the telephone interview, that the drawings are duplicates of the drawings from an issued patent (namely, U.S. Patent 5,509,070), the prosecution record includes no objection/rejection to the drawings, and therefore, Applicant has no reason to believe that corrected drawings are required. The Examiner concurred and indicated to Applicant's Representative that Applicant did not need to submit corrective or replacement drawings.
  - d. When questioned whether the present Application will go abandoned if no replacement drawings are submitted, the Examiner verbally assured Applicant's Representative during the telephone interview that the present Application will not go abandoned as no corrective drawings are required.
2. On November 7, 2006, Applicant timely remitted payment of the issue fee and publication fee. No corrective drawings were filed as they were not required pursuant to the above telephone interview with the Examiner.
  3. The aforementioned Notice of Abandonment was mailed on January 8, 2006. Applicant's Representative became aware of said Notice during a routine status check of the USPTO PAIR database on January 9, 2006, and immediately called and left a message with the Examiner.
  4. During a telephone interview with the Examiner on January 12, 2007, Applicant's Representative inquired about the propriety of the Notice of Abandonment. The Examiner indicated that he was not aware of the Notice, and once again, informed Applicant's Representative that no corrective drawings are required.
  5. An Interview Summary of the January 12, 2007 telephone interview was mailed on January 25, 2007. The Interview Summary is provided herewith as Attachment (a). In the Interview Summary, the Examiner admits that "Applicant does not need to [submit a] new or corrected drawing."
  6. In conclusion, Applicant respectfully submits that no corrective or replacement drawings are required for the present Application, and that Applicant has timely provided a full and complete reply to satisfy all requirements for issuance of the

present Application. Therefore, the aforementioned Notice of Abandonment has been issued in error.

As such, Applicant respectfully requests reconsideration and withdrawal of the holding of abandonment. To expedite prosecution of the present Application, please do not hesitate to contact the Applicant's undersigned attorney to discuss any issues relating to the present Application

It is not believed that any additional fees are due. However, the Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment to the undersigned attorney's Deposit Account No. 02-4270.

Respectfully submitted,

Dated: February 6, 2007

I hereby certify that this paper is being deposited this date with the U.S. Postal Service as First Class Mail addressed to: Director of Office of Patent Publication, P.O. Box 1450, Alexandria, VA 22313-1450.

Anthony Brown 02-06-07

By: 

Kendrick P. Patterson

Reg. No. 45,321

THELEN REID BROWN RAYSMAN &  
STEINER LLP

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New York, New York 10022

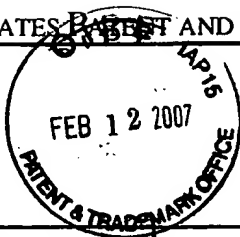
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/942,232

08/29/2001

Jonathan Schull

4861-08US

9664

29858 7590 01/25/2007  
THELEN REID BROWN RAYSMAN & STEINER LLP  
900 THIRD AVENUE  
NEW YORK, NY 10022

EXAMINER

BACKER, FIRMIN

ART UNIT

PAPER NUMBER

3621

MAIL DATE

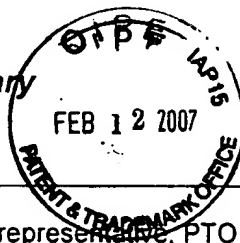
DELIVERY MODE

01/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

# Interview Summary



Application No. 09/942,232		Applicant(s) SCHULL, JONATHAN	
Examiner FIRMIN BACKER		Art Unit 3621	

All participants (applicant, applicant's representative, PTO personnel):

(1) FIRMIN BACKER.

(3) \_\_\_\_\_

(2) Kenneth Patterson.

(4) \_\_\_\_\_

Date of Interview: \_\_\_\_\_

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.

If Yes, brief description: \_\_\_\_\_

Claim(s) discussed: \_\_\_\_\_

Identification of prior art discussed: \_\_\_\_\_

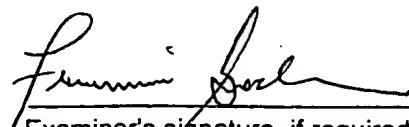
Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant discussed the abandonment based on indication by the Examiner that new drawings are needed to be submitted. Upon reviewing the drawing in the application, Examiner concluded that Applicant does not need to submitted new or corrected drawing.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
Examiner's signature, if required